

### REMARKS/ARGUMENTS

Favorable reconsideration of this application is respectfully requested.

Claims 2-19 are pending in this application. Claims 2, 3, 5-13, and 17-19 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. patent publication No. 2001/0041053 to Abecassis, U.S. patent 6,219,788 B1 to Flavin et al. (herein "Flavin"), U.S. patent 5,740,549 to Reilly et al. (herein "Reilly"), and U.S. patent 5,629,980 to Stefik et al. (herein "Stefik"). Claim 4 was rejected under 35 U.S.C. § 103(a) as unpatentable over Abecassis, Flavin, Reilly, and Stefik as applied to claim 2, and further in view of U.S. patent 6,671,879 to Schlarb et al. (herein "Schlarb"). Claims 14-16 were rejected under 35 U.S.C. § 103(a) as unpatentable over Abecassis, Flavin, Reilly, and Stefik as applied to claim 2, and further in view of U.S. patent 5,446,919 to Wilkins.

Addressing the above-noted rejections, each of the rejections is traversed by the present response.

Applicants respectfully submit that the outstanding rejections still are not properly considering all the claimed features. The outstanding rejections are similar to the rejections previously presented but now additionally recite the teachings in Stefik. With respect to additionally reciting the teachings in Stefik the outstanding Office Action states:

The examiner has added Stefik et al. to address the [attorney's] concern about an administrator server collects an advertisement rate from an advertiser and pays an execution fee to the holder of the digital content.<sup>1</sup>

The outstanding rejection also states:

Abecassis, Flavin et al. and Reilly et al. disclose(s) the claimed invention except download the advertising information piece, collect an advertisement rate from the advertiser and pay an execution fee to the holder that, corresponds to the number of execution times of the digital content. However, in col. 8, line 55 – col. 9, line 10, col. 15, lines 5-20, col. 17, lines 1-50, Stefik et al. disclose various fees for access and a fee for

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<sup>1</sup> Office Action of June 21, 2005, page 2, prenumbered paragraph 2.

transactions which is an execution fee since a transaction is executed on the server. It would be obvious to one of ordinary skill in the art to modify the invention of Abecassis, Flavin et al. and Reilly et al. based on the teachings of Stefik et al. The motivation to combine these references is to ensure accurate pay-per-use pricing transactions.<sup>2</sup>

Applicants respectfully submit the above-noted basis for the rejection citing the teachings in Stefik is improper as Stefik does not disclose any features that would overcome the recognized deficiencies in Abecassis, Flavin, and Reilly. Specifically, Stefik does not address a feature of an administrator server collecting an advertising rate from an advertiser and paying an execution fee to a holder of digital content, in contrast to the position in the Office Action.

Independent claims 2, 17, and 19 recite a digital content billing system using a network, including: a holder; a distributor; an advertiser; and an administrator server. The digital content billing system recited in amended claim 2 includes an administrator server “for collect an advertisement rate from the advertiser that corresponds to the number of execution times of the digital content used by the user and paying an execution fee to the holder that corresponds to the number of execution times of the digital content.” In operation, as illustrated in non-limiting illustrations in Figures 6-9, the administrator server bills the advertiser for advertisements seen by the user ST32, collects payments of an advertisement rate corresponding to the advertisements seen by the user ST33, and pays an execution fee to the holder for the digital content downloaded to the user ST34.

The digital content billing system as recited in amended claim 2 allows the user to execute desired digital content without payment. Therefore, since the users are not paying for the digital content, the holder’s distribution of digital content increases. The holder receives payment for the digital content from the administrator server that simply collects an advertising rate from an advertiser instead of collecting an execution fee from each user,

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<sup>2</sup> Office Action of June 21, 2005, the paragraph bridging pages 4 and 5.

which is difficult, time consuming, and resource consuming. Therefore, the digital content billing system as recited in amended claim 2 simplifies the billing for digital content, increases reliability in the collection of fees, and increases the distribution of digital content. With this in mind, a comparison of the claimed invention in view of the cited references is now provided.

The newly cited teachings in Stefik are completely unrelated to an administrative server collecting an *advertisement rate from an advertiser* and paying an execution fee to a holder of digital content. It appears that the outstanding rejection has not properly considered the teachings in Stefik.

Stefik is directed to a system for controlling use and distribution of digital works. In Stefik the owner of a digital work can attach usage rights to the work, which are granted to a buyer. Stefik specifically discloses the use of credit servers at column 17, lines 1-50, one portion in Stefik cited in the Office Action to correspond to the claimed features. However, such credit servers in Stefik are completely unrelated to the claimed features.

Stefik specifically discloses the use of a credit server for recording and reporting the fees paid by a user for a digital work. Stefik gives one example of a simplest model in which there is a single fee at the time of purchase, after which a purchaser obtains unlimited rights to use the work as often and for as long as he or she wants.<sup>3</sup>

Thus, in Stefik the credit server merely is a way to provide payments by a user to the holder of the digital works. Such credit servers in Stefik never mention nor even elude to collecting an *advertisement rate from an advertiser*. It is unclear on what basis the outstanding rejection even cites Stefik as it does not appear any more relevant than any of the further cited art with respect to the claimed features. The broad teachings in Stefik of

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<sup>3</sup> See specifically Stefik at column 17, lines 8-12.

monitoring fees for access to a digital work has no relevance whatsoever to collecting an advertisement rate from an advertiser.

Also, as noted above, one benefit in the present invention is that a user can execute a digital content without payment. That is directly contrary to the entire objective of the device of Stefik. Stefik is clearly directed to allowing a user to purchase a digital work, and clearly in Stefik the user pays for that digital work. The entire objective of the device of Stefik is contrary to benefits realized by the claimed invention.

In such ways, Stefik does not teach the features relied upon in the Office Action as Stefik is complete silent as to collecting any type of advertisement rate from an advertiser.

Moreover, each of the teachings in Abecassis, Flavin, and Reilly also suffer from similar deficiencies, as now discussed further below.

Abecassis is directed to a content on demand advertisement system, wherein the viewer is compensated for verified apparent viewing of a selected advertisement.<sup>4</sup> Abecassis simply states that a content on demand architecture can be used for advertisements in addition to movies, news, sports, and educational videos, and discloses a method for compensating *viewers* for the verified apparent viewing of the advertisement.<sup>5</sup> More specifically, a random access pointcast architecture provides the means for a viewer to select and retrieve a desired advertisement, and provides the means to *compensate the viewer* for the verified apparent viewing of the advertisement, thereby creating a transactional one to one relationship between the producer of the advertisement and viewer of the advertisement.<sup>6</sup> Further, the compensation received by the viewer may be in the form of coupons, rebates, or credits toward additional services provided by the on demand advertisement system.<sup>7</sup>

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<sup>4</sup> Abecassis, Abstract.

<sup>5</sup> Abecassis, page 25, paragraph 0383-0385.

<sup>6</sup> Abecassis, page 25, paragraph 0385; page 27, paragraph 0416.

<sup>7</sup> Abecassis, page 27, paragraphs 0416-0420.

However, Abecassis does not disclose or suggest a digital content billing system including an administrator server “for collect an advertisement rate from the advertiser that corresponds to the number of execution times of the digital content used by the user and paying an execution fee to the holder that corresponds to the number of execution times of the digital content.” Further, in the digital content billing system of amended claim 2, the user does not receive compensation from the holder, nor does the user pay the holder for the digital material. Therefore, Abecassis does not teach or suggest the digital content billing system recited in amended claim 2, which simplifies the billing of digital content, increases the reliability in the collection of fees, and increases the distribution of digital content.

Flavin is directed to a watchdog system that monitors and prevents tampering of electronic content and statistics relating to the distribution of the electronic content so that both the producers and distributors are provided with relevant and trustworthy information concerning the electronic content and its distribution.<sup>8</sup> The computer watchdog system of Flavin acts to ensure the just execution of agreements between the producer of the electronic content and the distributor of the electronic content.

Flavin is not directed to a digital content billing system, and thus also does not teach or suggest a digital content billing system with an administrator server “for collect an advertisement rate from the advertiser that corresponds to the number of execution times of the digital content used by the user and paying an execution fee to the holder that corresponds to the number of execution times of the digital content,” as recited in amended claim 2. Therefore, Flavin does not cure the deficiencies as discussed above with respect to Abecassis and Stefik.

Reilly is directed to an information and advertising distribution system, wherein an information administrator in each workstation establishes communication with an information server periodically to update information items and advertisements stored in a local memory.<sup>9</sup> An information display controller in each work station displays at least a subset of the information

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<sup>8</sup> Flavin, column 4, lines 16-60.

<sup>9</sup> Reilly, column 2, line 61 to column 3, line 24.

items and advertisements stored in the local memory when the workstation meets pre-defined idleness criteria.<sup>10</sup>

However, Reilly is not directed to a digital content billing system, and also does not teach or suggest a digital content billing system with an administrator “for collect an advertisement rate from the advertiser that corresponds to the number of execution times of the digital content used by the user and paying an execution fee to the holder that corresponds to the number of execution times of the digital content,” as recited in amended claim 2. Therefore, Reilly also does not cure the deficiencies as discussed above with respect to Abecassis, Flavin, and Stefik.

Therefore, Abecassis, Flavin, Reilly, and Stefik, either alone or in any proper combination, do not teach or suggest the above discussed features of amended claim 2. Further, the cited references of Schlarb and Wilkins have been considered, but Schlarb and Wilkins also fail to cure the deficiencies of Abecassis, Flavin, Reilly, and Stefik with regard to amended claim 2.

Accordingly, it is respectfully requested that the rejection to claim 2 under 35 U.S.C. §103(a) be withdrawn.

Independent claims 17 and 19 share substantially the same limitations as discussed above with respect to amended claim 2, and therefore are allowable for at least the same reasons as amended claim 2. Likewise claims 3-16 and 18 that depend from claims 2 and 17 are likewise allowable.

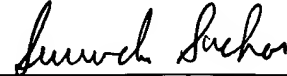
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<sup>10</sup> Reilly, column 2, line 61 to column 3, line 24.

As no other issues are pending in this application, it is respectfully submitted that the present application is now in condition for allowance, and it is hereby respectfully requested that this case be passed to issue.

Respectfully submitted,

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